

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JUAN CARLOS BARDALES,

Plaintiff,

v.

CONSULATE GENERAL OF PERU IN
NEW YORK and MARIA TERESA
MERINO VILLARAN DE HART,
individually,

Defendants.

Civil Action No.: 1:17-cv-08897 (ALC)

**AFFIDAVIT OF NICHOLAS M. RENZLER IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS THE SECOND AMENDED COMPLAINT**

I, Nicholas M. Renzler, hereby depose and swear as follows:

1. I am an attorney at the law firm of Foley Hoag LLP, counsel of record for Defendants Consulate General of Peru in New York (the “Consulate”) and Maria Teresa Merino Villaran De Hart (collectively, the “Defendants”) in the above-captioned matter. I respectfully submit this affidavit in support of Defendants’ Motion to Dismiss the Second Amended Complaint of Plaintiff Juan Carlos Bardales (“Bardales”).

2. I make this affidavit based upon my personal knowledge.

3. A true and accurate copy of an e-mail sent on August 27, 2010, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales’ requests for production, along with a certified translation thereof, is attached hereto as Exhibit 1.

4. A true and accurate copy of an e-mail sent on December 2, 2010, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 2.

5. A true and accurate copy of an e-mail sent on September 6, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 3.

6. A true and accurate copy of an e-mail exchange dated December 30, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 4.

7. A true and accurate copy of an e-mail exchange dated January 6, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 5.

8. A true and accurate copy of an e-mail sent on January 27, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 6.

9. A true and accurate copy of an e-mail sent on February 6, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4,

2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 7.

10. A true and accurate copy of an e-mail sent on February 21, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 8.

11. A true and accurate copy of an e-mail sent on September 11, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 9.

12. A true and accurate copy of an e-mail exchange dated June 28, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 10.

13. A true and accurate copy of an e-mail exchange dated November 6, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 11.

14. A true and accurate copy of an e-mail exchange dated February 7, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 12. I have caused this document to be redacted

to protect the confidentiality of personal information of a Peruvian citizen unrelated to this litigation.

15. A true and accurate copy of an e-mail sent on June 20, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 13. I have caused this document to be redacted to protect the confidentiality of personal information of a Peruvian citizen unrelated to this litigation.

16. A true and accurate copy of an e-mail exchange dated November 21, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 14.

17. A true and accurate copy of an e-mail sent on October 5, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 15.

18. A true and accurate portrayal of Bardales' work schedules (as maintained by the Consulate in its ordinary course of business and are attached hereto as Exhibits 26-44), which was created by analyzing Exhibits 26-44 in preparation for this Motion to Dismiss, is attached hereto as Exhibit 16.

19. A true and accurate copy of an e-mail sent on September 7, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 17.

20. A true and accurate copy of an e-mail exchange dated December 2, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 18.

21. A true and accurate copy of an e-mail exchange dated December 9, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 19.

22. A true and accurate copy of an e-mail exchange dated May 17, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 20.

23. A true and accurate copy of an e-mail exchange dated February 22, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 21.

24. A true and accurate copy of an e-mail sent on February 25, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 22.

25. A true and accurate copy of an e-mail sent on July 26, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019

in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 23.

26. A true and accurate copy of an e-mail sent on December 4, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 24.

27. A true and accurate copy of an attachment to an e-mail sent on March 11, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 25.

28. A true and accurate copy of an attachment to an e-mail sent on April 1, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 26.

29. A true and accurate copy of an attachment to an e-mail sent on May 1, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 27.

30. A true and accurate copy of an attachment to an e-mail sent on June 2, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 28.

31. A true and accurate copy of an attachment to an e-mail sent on July 1, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 29.

32. A true and accurate copy of an attachment to an e-mail sent on August 4, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 30.

33. A true and accurate copy of an attachment to an e-mail sent on September 2, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 31.

34. A true and accurate copy of an attachment to an e-mail sent on October 1, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 32.

35. A true and accurate copy of an attachment to an e-mail sent on October 23, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 33.

36. A true and accurate copy of an attachment to an e-mail sent on December 2, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to

Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 34.

37. A true and accurate copy of an attachment to an e-mail sent on December 19, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 35.

38. A true and accurate copy of an attachment to an e-mail sent on January 30, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 36.

39. A true and accurate copy of an attachment to an e-mail sent on February 20, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 37.

40. A true and accurate copy of an attachment to an e-mail sent on April 1, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 38.

41. A true and accurate copy of an attachment to an e-mail sent on April 24, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 39.

42. A true and accurate copy of an attachment to an e-mail sent on May 29, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 40.

43. A true and accurate copy of an attachment to an e-mail sent on June 30, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 41.

44. A true and accurate copy of an attachment to an e-mail sent on July 31, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 42.

45. A true and accurate copy of an attachment to an e-mail sent on September 30, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 43.

46. A true and accurate copy of an attachment to an e-mail sent on October 20, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 44.

47. A true and accurate copy of an e-mail exchange dated January 13, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales

on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 45.

48. A true and accurate copy of an e-mail exchange dated February 23, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 46.

49. A true and accurate copy of an e-mail exchange dated February 23, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 47.

50. A true and accurate copy of an e-mail sent on March 24, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 48.

51. A true and accurate copy of an e-mail sent on April 1, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 49.

52. A true and accurate copy of an e-mail sent on May 26, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 50.

53. A true and accurate copy of an e-mail exchange dated July 31, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 51.

54. A true and accurate copy of an e-mail sent on July 25, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 52.

55. A true and accurate copy of an e-mail sent on September 8, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 53.

56. A true and accurate copy of an e-mail exchange dated March 1, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 54.

57. A true and accurate copy of an e-mail sent on November 27, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 55.

58. A true and accurate copy of an e-mail sent on January 8, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4,

2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 56.

59. A true and accurate copy of an e-mail sent on February 11, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 57.

60. A true and accurate copy of an e-mail sent on March 29, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 58.

61. A true and accurate copy of an e-mail exchange dated August 5, 2013, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on March 4, 2019 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 59.

62. A true and accurate copy of an employment agreement by and between the Consulate and Bardales covering the period from August 1, 2010 to December 31, 2010, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on December 26, 2018 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 60.

63. True and accurate copies of employment agreements by and between the Consulate and Bardales covering the period from August 1, 2010 to December 31, 2011, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales

on December 26, 2018 in response to Bardales' requests for production, along with certified translations thereof, is attached hereto as Exhibit 61.

64. A true and accurate copy of an employment agreement by and between the Consulate and Bardales covering the period from January 1, 2010 to December 31, 2012, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on December 26, 2018 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 62.

65. True and accurate copies of employment agreements by and between the Consulate and Bardales covering the period from January 1, 2014 to December 31, 2014, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on December 26, 2018 in response to Bardales' requests for production, along with certified translations thereof, is attached hereto as Exhibit 63.

66. A true and accurate copy of an employment agreement by and between the Consulate and Bardales covering the period from January 1, 2015 to December 31, 2015, as maintained by the Consulate in its ordinary course of business, which was produced to Bardales on December 26, 2018 in response to Bardales' requests for production, along with a certified translation thereof, is attached hereto as Exhibit 64.

Sworn to on this 10th day of January, 2020, under the pains and penalties of perjury.

/s/ Nicholas M. Renzler
Nicholas M. Renzler

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as unregistered participants on January 10, 2020.

/s/ Nicholas M. Renzler
Nicholas M. Renzler